

Interview Summary

Application No.

10/754,919

Applicant(s)

TAHERI, SYDE A.

Examiner

Sarah K. Webb

Art Unit

3731

All participants (applicant, applicant's representative, PTO personnel):

(1) Sarah K. Webb.

(3) _____

(2) Mark Kertz.

(4) _____

Date of Interview: 17 January 2007.Type: a) ☐ Telephonic b) ☐ Video Conference
c) ☒ Personal [copy given to: 1) ☐ applicant 2) ☒ applicant's representative]Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.

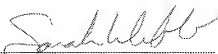
If Yes, brief description: _____

Claim(s) discussed: 20.Identification of prior art discussed: DiMatteo.Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Discussed allowability of claim 20 over DiMatteo, as the scaffold is bioabsorbable but the cells that form the "wall" that blocks blood flow are not. See column 10, lines 49-55 regarding this description. Does the claim necessarily require the wall to be bioabsorbable? Applicant will submit additional arguments to clarify their position and examiner will re-consider the prior art of record to determine patentability of the claims.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an
Attachment to a signed Office action.
Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.136, (35 U.S.C. 132).

37 CFR § 1.2 Business to be transacted in writing.

All business, with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate interview Summary Record is required.

The interview Summary Form shall be given an appropriate Paper No. placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner.
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Syde A. Taheri
Appl. No.	:	10/754,919
Filed	:	January 10, 2004
For	:	TEMPORARY ABSORBABLE VENOUS OCCLUSIVE STENT AND SUPERFICIAL VEIN TREATMENT METHOD
Examiner	:	Sarah K. Webb
Group Art Unit	:	3731

INTERVIEW SUMMARY AND SUPPLEMENTAL RESPONSE TO OFFICE ACTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant herein summarizes the personal interview conducted on January 17, 2006 and further responds to the Office Action mailed on August 22, 2006.

Appl. No. : 10/754,919
Filed : January 10, 2004

SUMMARY OF PERSONAL INTERVIEW OF JANUARY 17, 2006

In Attendance

1) Exr. Sarah K. Webb 2) Mark Kertz, Reg. No. 43,711

Exhibits and/or Demonstrations

None

Identification of Claims Discussed

Claim 20

Identification of Prior Art Discussed

DiMatteo, US 6,440,164

Proposed Amendments

None

Principal Arguments and Other Matters

(See Remarks below)

Results of Interview

No agreement was reached as to the claims. Examiner requested submission of arguments so that they could be considered in detail.

REMARKS

Applicant thanks Examiner Sarah Webb for the courteous and helpful personal interview conducted on January 17, 2007. This paper is submitted to summarize the interview and further respond to the Office Action mailed on August 22, 2006.

Applicant contends that the cited DiMatteo reference does not teach all of the elements recited in Claim 20, discussed during the interview. Claim 20 currently recites:

20. A temporary absorbable venous occlusive stent, comprising:
a stent body comprising a bio-absorbable material; and
an adjustable bio-absorbable closure device associated with said stent body, said adjustable bio-absorbable closure device comprising:
an open configuration in which said bio-absorbable closure device permits blood flow past said stent body; and
a blocking configuration in which said bio-absorbable closure device forms a wall that blocks blood flow past said stent body.

Claim 20 therefore requires a “[bio-absorbable] wall that blocks blood flow past said stent body” when the bio-absorbable closure device is in the blocking configuration. The wall is understood as bio-absorbable within the context of this claim, as the wall is recited as a sub-component of the “bio-absorbable closure device.”

DiMatteo fails to teach such a bio-absorbable wall that blocks blood flow. The relevant portion of DiMatteo states:

[E]ach valve leaf aperture 62 may be covered with cultured tissue cells derived from a either a donor or the host patient. The cultured tissue cells may be attached to each leaf frame 52 to the distal extent 31 of scaffold 30 so as to seal each valve leaf aperture 62. The cultured tissue cells may be initially positioned on a micro filter type mesh so as to extend either partially or fully into each valve leaf aperture 62. Scaffold 30 and leaf frames 52 may be formed of either a bioabsorbable material or a non-bioabsorbable material so that each will eventually be displaced by the tissue cells as the tissue cells mature. Eventually, then, the cells alone will provide the fully functioning valve.

Col. 10:39-55 (see also col. 2:59-3:6). As discussed in the Response to Final Office Action submitted on January 12, 2007, DiMatteo teaches valve leafs which remain in the patient instead of being absorbed. Indeed, this is the opposite of bio-absorbable.

None of the portions of the DiMatteo device which are taught as being bio-absorbable can be considered a “wall” that is sufficiently impermeable to block blood flow. The scaffold 30 is simply a longitudinally extending tube through which blood readily passes, and the leaf frames 52 leave large apertures 62 which likewise tend to allow passage of blood (absent the durable cells discussed above). Even if DiMatteo’s “micro filter type mesh” is understood to be

Appl. No. : 10/754,919
Filed : January 10, 2004

disclosed as bio-absorbable (which Applicant does not concede), it would not provide the claimed wall.

Supplemental Power of Attorney

Submitted herewith is a supplemental power of attorney appointing Mark Kertz, the assignee's in-house patent counsel, to facilitate the recent personal interview. This supplemental appointment of Mr. Kertz does not affect the power given to Knobbe, Martens, Olson & Bear LLP (Customer No. 20,995), and all correspondence should remain addressed to Knobbe, Martens.

Conclusion

If any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney to resolve such issue(s) promptly.

Respectfully submitted,

VNUS MEDICAL TECHNOLOGIES, INC.

Dated: Jan. 22, 2007

By: Mark Kertz
Mark J. Kertz
Registration No. 43,711
Attorney of Record
(408)360-7327